

# **Exhibit 4**



Michael McAvoyamaya <mmcavoyamayalaw@gmail.com>

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**Expert Disclosures and Plaintiffs' Discovery Extension Request; Cabrera, et al. v. Serv. Employees Int'l Union, et al., U.S.D.C. Case No. 2:18-cv-00304-RFB-DJA**

1 message

Rosa Rozman <rrozman@rsglabor.com>

Thu, Aug 15, 2019 at 3:46 PM

To: "mmcavoyamayalaw@gmail.com" <mmcavoyamayalaw@gmail.com>

Cc: Eli Naduris-Weissman <enaduris-weissman@rsglabor.com>, Jonathan Cohen <jcohen@rsglabor.com>, Carlos Coye <ccoye@rsglabor.com>, "elj@cjmlv.com" <elj@cjmlv.com>

Dear Mr. McAvoyamaya:

Attached please find correspondence dated August 15, 2019. Original to follow via U.S. Mail.

**Rosa Rozman**

Legal Secretary

Rothner, Segall & Greenstone

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[2019.08.15.Eli Naduris-Weissman & Evan James to Michael McAvoyamaya.pdf](#)  
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**ROTHNER, SEGALL & GREENSTONE**

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August 15, 2019

**By U.S. Mail and Email**

Michael J. McAvoyamaya  
4539 Paseo Del Ray  
Las Vegas, Nevada 89121

**Re: Expert Disclosures and Plaintiffs' Discovery Extension Request**  
*Cabrera, et al. v. Serv. Employees Int'l Union, et al.,*  
U.S.D.C. Case No. 2:18-cv-00304-RFB-DJA

Dear Mr. McAvoyamaya:

We write this joint letter of counsel on behalf of SEIU Local 1107 and SEIU International, defendants in this matter, to address several discovery issues in the above-referenced case.

First, we are in receipt of Plaintiff Debbie Miller's disclosure of Kevin Kirkendall as her economic damages expert. This expert disclosure is deficient under Federal Rules of Civil Procedure Rule 26 because an expert report must include, among other things, "the facts or data considered by the witness in forming" his or her expert opinion. Fed. R. Civ. P. 26(a)(2)(B)(ii). In Mr. Kirkendall's expert report, he specifically states he reviewed the following documents in forming his opinion and completing his report: "First Amended Complaint," "SEIU Affiliates Officers and Employees Pension Plan (Summary Plan Description)," "2018 Tax Return For Debbie Miller," "2016 Tax Return," "2017 Wages and Earning Tax Statement," and "2017 Tax Return For Debbie Miller." However, though required, Kirkendall's expert report failed to include any of these documents. *See B.C.F. Oil Ref., Inc. v. Consol. Edison Co. of New York*, 171 F.R.D. 57, 62-63 (S.D.N.Y. 1997); *Rembrandt Vision Techs., L.P. v. Johnson & Johnson Vision Care, Inc.*, 725 F.3d 1377, 1381 (Fed. Cir. 2013). To avoid disqualification of any expert testimony based on this deficient disclosure, please forward these documents to our offices by August 19, 2019.

August 15, 2019

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We also request that you stipulate to extending the due date for Defendants to disclose any expert witnesses, and including any rebuttal expert witnesses, for a corresponding period, to September 19, 2019, based on the deficiency of the report.

We also note that you have requested a two-week extension to respond to the discovery requests SEIU International propounded on Plaintiffs Debbie Miller and Javier Cabrera on July 12, 2019, which would otherwise be due. Assuming you agree to the above, SEIU International agrees to extend the due date for response to August 29, 2019.

Please confirm as soon as possible whether you agree to the above, and do not hesitate to contact the undersigned with any questions or concerns.

Very truly yours,

ROTHNER, SEGALL & GREENSTONE



Eli Naduris-Weissman  
*Attorneys for SEIU International Defendants*

CHRISTENSEN JAMES & MARTIN



Evan L. James, Esq.  
*Attorneys for Local 1107 Defendant*

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